

# General Terms and Conditions for Business Customers

## 1. Supply of Electricity by Simply Energy Ltd

- 1.1 Your contract with us starts on the earlier of the date we start supplying electricity to your Premises or you sign an agreement with us. The contract consists of these General Terms and any Customer Specific Terms & Pricing Schedule. There may be more than one Pricing Schedule. If there is no Pricing Schedule attached or notified to you, then our standard pricing for customers of your type will apply.
- 1.2 You will not purchase or take supply of electricity to the Premises from any other person for the term of the Agreement.

## 2. Metering

- 2.1 The quantity of electricity we supply you is measured by a Meter. If there is no appropriate Meter at the Premises, then we will arrange for the supply and installation of an appropriate Meter (which we may require to be a time of use meter) and charge you for this.
- 2.2 If we do not supply the Meter, you are responsible for ensuring that the Meter meets relevant industry standards and you hereby indemnify us for all costs, losses, claims and damages and against all proceedings and demands arising from the Meter not meeting industry standards.
- 2.3 You must not interfere or tamper with the Meter or the immediate connections to it. You may be criminally prosecuted for doing so. You must keep the Meter safe. If you become aware of any interference with the Meter you must notify us as soon as reasonably practicable.
- 2.4 We intend to read the Meter at the Premises no less than 6 times per year, provided we have access.
- 2.5 If you think that the Meter is faulty, please notify us. If we test the Meter and find it is inaccurate, we may charge you for this if it is not our Meter. If you ask us to test one of our own Meters, and it is accurate, you may be charged a fee.
- 2.6 If we find that a Meter is producing inaccurate readings, then we will issue a correcting notice. Any adjustment to our record of your electricity usage will be reflected in subsequent invoices. If the adjustment results in us owing you money, it will be credited to your account. If the adjustment results in you owing us money, you will pay the corrected amount owing to us within 10 Business Days of us advising you of the amount payable (which may be by way of the next invoice).
- 2.7 If you add to, modify or replace any equipment on your Premises then we may require that the Meter is upgraded. If it is not our Meter you are responsible for doing this. Otherwise we will be responsible for such upgrade but may charge you for it.
- 2.8 The Meter Owner (if it is not us or you) has no liability (in respect of the supply of electricity) to you under this Agreement. This provision is for the benefit of and enforceable by the Meter Owner pursuant to the Contracts (Privity) Act 1982.

## 3. Customer Information

- 3.1 Under this Agreement we will collect, hold, use and disclose certain information about you. If you are an individual, the Privacy Act applies to that personal information. You authorise us to disclose such information to the Lines

Company and Meter Owner for any purpose associated with this Agreement. You must ensure that information is correct, complete and up-to-date.

- 3.2 We will only collect, use and disclose personal information provided by you for the purposes of this Agreement unless we have your consent or disclosure is required by law (including the Rules). The purposes of this Agreement include:
  - (a) to enable us to do necessary credit checks;
  - (b) to collect outstanding moneys;
  - (c) to provide you with information and offers from us.
- 3.3 We may check the information or collect other information about you (and, if applicable, your directors, shareholders, etc.) from other organisations or people, such as credit agencies and the Lines Company, for business purposes.
- 3.4 We may record our telephone conversations with you to assist us in performing this Agreement. If we do so, the recordings will be kept secure and may be retained for at least one year after which they will be destroyed. While we hold them you may request access to them and we will grant you reasonable access. You can request a copy of all information held by us about you or your account, and may request that it is corrected if it is wrong. We will correct it (after investigation if necessary) if we find that it is incorrect.

## 4. Interruptions to Supply (Faults)

- 4.1 If you experience problems with electricity supply you can telephone us at any time. We provide a 24-hour fault notification service. For Faults contact your local network company or Simply Energy on 0508 474 6759, 24 hours per day 7 days per week.
- 4.2 We cannot guarantee that electricity supply will be continuous or fault free. If there is a planned interruption to supply (for example for maintenance by the Lines Company) we will try to provide at least three Business Days notice. Notice may be given by public notice or advertisement in the local newspaper or radio.
- 4.3 If there is an unplanned outage (for example for a dangerous situation) we will use reasonable endeavours to minimise inconvenience to you.
- 4.4 If your pricing option allows us or the Lines Company to control the supply of energy to your Equipment, we may temporarily suspend supply without notifying you.
- 4.5 We are not liable to you for any failure to perform our obligations, to the extent that such failure is caused by a Force Majeure Event. We will resume our obligations once the Force Majeure event no longer prevents us doing so.

## 5. Charges & Payment

- 5.1 You must pay the Charges for all electricity supplied to your Premises by us, and any third party charges (which are passed through from those parties to us and on to you, and may change without advance notice). We will advise you of such changes as soon as reasonably practicable (which may be by way of an explanation on your invoice).
- 5.2 We will calculate the Charges based on an actual Meter reading or an estimate (based on previous consumption if known) of the amount you have consumed over the Billing Period. If we do not know how much electricity was actually

supplied to you (for example because of a faulty Meter) then we may estimate the amount of electricity supplied and invoice accordingly.

- 5.3 Generally we will invoice you each month setting out the payment due (including GST).
- 5.4 We may invoice you more frequently than once a month if we consider there are significant price changes in the electricity spot market that warrant this. If we do this, then all references to "Billing Period" and all monthly calculations will be adjusted accordingly.
- 5.5 You will pay each invoice in full by direct debit, automatic payment or cheque to us on the Due Date. You may not deduct or set off any amounts from the amount shown on the invoice.
- 5.6 If you dispute any invoice, then you must advise us before the Due Date with your reasons. You must pay any undisputed amount in full on the Due Date. We will not charge you default interest, or suspend your supply, while there is a genuinely disputed amount. Interest may be payable at the Default Interest Rate for overdue amounts once the dispute is resolved.
- 5.7 If an invoice dispute is resolved in your favour, we will credit your account. If an invoice dispute is resolved in our favour, we will add the amount to your next invoice or require you to pay any amount owed within 5 Business Days. If you fail to do so, that amount will be treated as overdue and interest will be payable at the Default Interest Rate and your electricity supply may be disconnected.
- 5.8 If any sums are not paid by the Due Date then you must pay interest on unpaid amounts at the Default Interest Rate. We may also use your bond to settle any amounts owing. We may disconnect or suspend supply for unpaid invoices.
- 5.9 We may take action to recover any overdue amount. Any costs incurred in collecting money owed to us by you including bank fees, credit agency fees, legal expenses and court costs and default interest are payable by you.
- 5.10 Charges are exclusive of GST and any other taxes and levies (if any). You must pay GST and any other taxes and levies payable on the Charges, as shown in your invoice.
- 5.11 We may require you to pay a bond to cover any money you may owe us. We may pay the balance of the bond (which may be by a credit on your account) if you have paid all invoices on time in full for a period of twelve continuous months. If this does not occur we will pay the balance of the bond back when we stop supplying electricity to you (after any money owing is deducted or paid to us).
- 5.12 If we find that you have been overcharged, then we will refund you for any overcharge (which may be by a credit against future invoices). If we find you have been undercharged, then we may invoice you for the amount undercharged (or add it to your next invoice).

## 6. Complaints

- 6.1 If you aren't satisfied with our service, you can lodge a complaint. We will work with you to resolve any problem as soon as we reasonably can. We may refer your complaint to the Lines Company or Meter Owner (if that is not us) if we believe that is appropriate.
- 6.2 If you are not happy with the way we deal with your complaint, or if it has not been resolved within 40 Business Days, then you may refer your complaint to the Electricity and Gas Complaints Commissioner to resolve ([www.egcomplaints.co.nz](http://www.egcomplaints.co.nz) or 0800 22 33 40). This does not

affect your ability to take the complaint to the Disputes Tribunal or the Courts.

## 7. Equipment & Safety

- 7.1 You must do the following (at your own cost) in respect of Equipment:
  - (a) provide suitable space for the secure housing of any Equipment we decide is needed at the Property for your supply;
  - (b) repair and maintain the Equipment on your Property if it is not owned or supplied by us;
  - (c) ensure that any Equipment not owned by us complies with relevant technical standards and codes of practice;
  - (d) protect Equipment on your property from damage and unauthorised interference or removal, not encumber or use the Equipment as security in any way or to make the Equipment a fixture of Premises;
  - (e) tell us about any damage to or interference with the Equipment as soon as you become aware of it. If Equipment on the your property is damaged or interfered with, we may charge you the estimated cost of any unmeasured supply, the cost of our investigation and the cost of repairing or replacing Equipment;
  - (f) not (and not allow anyone else to): interfere with the supply of electricity to you or anyone else; take electricity illegally; without prior written approval connect any generation assets to the network or use electricity or Equipment unsafely. You must ensure that only qualified persons carry out any work on or affecting Equipment or electricity supply;
- 7.2 You must ensure that any trees and vegetation on your property are kept trimmed away from all power lines and other electrical equipment (including meter boxes).
- 7.3 There may be voltage fluctuations which could damage the Equipment or your property. It is your responsibility to install protective devices and to arrange insurance covering damage from such fluctuations or make other arrangements to secure supply and protect equipment. We are not responsible for damage caused to Equipment or appliances, including loss of data, arising from such fluctuations.

## 8. Access to Property

- 8.1 You must provide us with safe and unobstructed access to the Premises so that we can:
  - (a) read the Meter;
  - (b) install, inspect, work on, replace or remove Equipment;
  - (c) investigate any actual or suspected damage to Equipment;
  - (d) connect, reconnect or discontinue the electricity supply to you or third parties;
  - (e) investigate the cause of any interference to electricity supply;
  - (f) protect or prevent danger or damage to people or property;
  - (g) as required for the purposes of this Agreement including compliance with any Lines Company request for access.
- 8.2 We will generally exercise this access during Normal Business Hours but you agree to allow access outside of Normal Business Hours if the matter is urgent. You may refuse access if we are not able to show proper identification on request.

8.3 If you do not ensure that we have safe and unobstructed access to your property or the Meters or fittings, or if we cannot reasonably access your property and/or read the Meter, we may charge you for any additional costs (including any callout fees) and your supply of electricity may be disconnected, interrupted or suspended.

8.4 If you have an internal Meter, you must make a meter access arrangement with us to enable us to read and maintain the Meter. We agree to keep the key for such access safe and secure at all times.

## 9. Disconnection

9.1 We may disconnect the electricity supply to your Premises if:

- (a) we need to protect health and safety or prevent damage to property;
- (b) you do not pay any money owing under this Agreement on time, or if you breach any other obligation under this Agreement. However before disconnecting you for breach, we will give you at least one week to fix the breach, and if you do not fix it then a final warning at least 24 hours before we disconnect you;
- (c) we reasonably believe that the Meter, lines or fittings on your property have been tampered with;
- (d) we cannot get access to your Premises and property for the purposes of this Agreement for more than three months;
- (e) you have asked for your supply to be disconnected;
- (f) this Agreement ends and is not replaced by any subsequent agreement; or
- (g) the Lines Company requires the supply to be disconnected under its agreement with you or with us.

9.2 If we disconnect your electricity supply, you are still responsible for paying any outstanding debts or other sums as they become due (including costs incurred after disconnection).

9.3 If your electricity supply has been disconnected as above and you want to be reconnected, we may require you to:

- (a) pay all outstanding debts;
- (b) pay a bond;
- (c) pay a reconnection fee; and/or
- (d) agree to adjusted charges and terms.

If you comply, we will reconnect you promptly.

## 10. Termination

10.1 Unless a fixed term is specified under the Customer Specific Terms, you may terminate this Agreement by:

- (a) switching to another retailer. You will need to arrange supply with that retailer and we will switch you according to industry protocols. This Agreement remains in force until the switch is completed; or
- (b) asking us to disconnect electricity supply to your premises. We require at least 5 Business Days' notice for this.

10.2 We may terminate this Agreement:

- (a) Immediately if our agreement (or, if you have a direct agreement, then your agreement) with the Lines Company is terminated;
- (b) 24 hours after a final warning to you if you breach this Agreement;
- (c) by giving you one month's written notice. If we exercise this right, you will use all reasonable endeavours to find

an alternative retailer and arrange to switch to that retailer before the expiry of the notice period.

10.3 Following termination we will provide a final invoice to your address (unless you notify us of a new forwarding address).

10.4 Clauses of this Agreement that are intended to survive termination shall survive termination, including clause 5 (payment), clause 12 (confidentiality) and clause 14 (liability).

## 11. Lines Company requirements

11.1 We do not own the lines network through which electricity is delivered to you. The Lines Company owns and is responsible for the network.

11.2 You may have an agreement directly with the Lines Company for network services, in which case you must comply with that agreement. In most instances, however, we have an agreement with the Lines Company to provide network services to you. In that case, you:

- (a) must comply with the Lines Company's network connection standards (available from your Lines Company);
- (b) must provide suitable, safe and secure space for any Lines Company Equipment required;
- (c) acknowledge that the Lines Company has no liability to you in relation to the supply of electricity;
- (d) must not connect, disconnect or modify any Equipment to or from the network;
- (e) grant the Lines Company safe and unobstructed access to the Premises and facilities as reasonably required by the Lines Company; and
- (f) comply with any other terms imposed by the Lines Company to enable us to supply electricity to you.

11.3 You acknowledge that the Lines Company may interrupt supply or reduce the conveyance of electricity to you:

- (a) to enable it to inspect, maintain or make alterations to the network;
- (b) to avoid danger to persons or property or avoid interference with the conveyance of electricity;
- (c) to preserve and protect the proper working of the network or the transmission network;
- (d) in carrying out load management;
- (e) for any other purpose which in the Lines Company's reasonably held opinion is required by good industry practice.

11.4 If you do not have your own agreement directly with the lines company (or if they have appointed us as their agent for collection), we will charge you for the network services provided by the Lines Company. This amount is set by the Lines Company.

11.5 The terms and conditions included in this Agreement in relation to the Lines Company and/or the network are for the benefit of and enforceable by the Lines Company, its directors, employees, and authorised agents pursuant to the Contracts (Privity) Act 1982.

## 12. Confidentiality

12.1 Each party will at all times keep confidential any Customer Specific Terms and Pricing Schedule (including pricing as notified to you) except where disclosure is required for the performance of this Agreement, or by law, or with the other party's consent or the information is in the public domain (not through breach of this Agreement). This clause survives termination of this Agreement.

### 13. Variation

- 13.1 We can change any term of this Agreement. If we want to change any term (except the Charges) we will notify you of the proposed changes, with reasons, either directly or by advertising or placing a notice in the local newspaper. You will have the opportunity to comment on the proposed changes. If we decide to make the changes (which may be amended based on your or other comments) we will give you 20 Business Days notice of such changes.
- 13.2 We may amend our Charges at any time, provided that we give you at least 20 Business Days' notice of the change and provide reasons for the change.

### 14. Indemnity & Limitation of Liability

- 14.1 You indemnify us for all costs, losses, claims, damages and against all proceedings and demands incurred:
- (a) in recovering amounts owed by you under this Agreement; and
  - (b) as a direct or indirect result of your negligence or breach of this Agreement.
- 14.2 If we cause physical damage to your property by breaching this Agreement or through our negligence, and the loss or damage was reasonably foreseeable, we will either pay for the loss or damage, or repair or replace the property (at our discretion), up to a maximum of \$10,000 for any single event or series of related events. To the extent permitted by law, we will not be liable to you for any other loss or damage (whether due to negligence, breach or otherwise). In particular we will not be liable for any indirect or consequential losses, loss of profits or the like.
- 14.3 You acknowledge that if you are acquiring electricity from us for business purposes, then any rights or remedies you may otherwise have under the Consumer Guarantees Act 1993 are excluded to the maximum extent permitted by law.

### 15. Assignment & Transfer

- 15.1 You cannot assign or transfer your rights and/or obligations under this Agreement to any person without our prior written consent, such consent not to be unreasonably withheld.
- 15.2 We may at any time transfer or assign all or any of our rights and obligations under this Agreement. We will notify you if we do this as soon as reasonably practicable.
- 15.3 We may sub-contract or delegate the performance of any of our obligations under this Agreement.

### 16. Further Clauses

- 16.1 No waiver of any breach or failure to enforce any rights by either party will prevent or limit that party's right to enforce this Agreement.
- 16.2 If any provision of this Agreement is held by a Court to be invalid, void, illegal or unenforceable, then the remaining provisions of this Agreement will remain in full force and effect and be construed so as to best effect the intention of the parties.

### 17. Notices & Communication

- 17.1 If you need to give notice to us under this Agreement, you must do so in writing by:
- (a) Post to:
    - Simply Energy
    - PO Box 10609
    - The Terrace
    - Wellington 6143;
  - (b) By fax to 04 473 9805; or

(c) By email: [service@simplyenergy.co.nz](mailto:service@simplyenergy.co.nz)

- 17.2 If you want to contact us (other than by notice required under this Agreement) you may write, email or telephone 0508 474 6759.
- 17.3 If we send a notice to your mailing address (as recorded in the Customer Specific Terms or otherwise advised to us) then that notice will be deemed to have been received by you three Business Days after being posted.

### 18. Rights of Electricity Authority

- 18.1 If we commit an event of default (as defined in the Code) then notwithstanding anything else in this Agreement it is agreed that the Electricity Authority (**Authority**) shall have the right to:
- (a) assign our rights and obligations under this Agreement to another retailer;
  - (b) amend the terms of the assigned Agreement to:
    - (i) the new retailer's standard terms or such other terms as the new retailer and the Authority agree, provided that such amended terms are more advantageous to you than the retailer's standard terms;
    - (ii) include a minimum term in respect of which you must pay an amount for cancelling the assigned Agreement before expiry of such.
- 18.2 You acknowledge that we may provide information about you to the Authority and the Authority may provide that information to another retailer if required under the Code.
- 18.3 You acknowledge that we may assign our rights and obligations to another retailer.
- 18.4 This clause 18 is for the benefit of the Authority for the purposes of the Contacts (Privity) Act 1982.

### 19. Definitions and Interpretation

- 19.1 Words in this Agreement have the meaning set out below, unless specified otherwise:
- Billing Period** means, in relation to an invoice, the previous calendar month.
  - Business Day** means any day except a weekend or a public holiday.
  - Charges** means the Charges set out in the Pricing Schedule (plus any third party charges that are not specified in the Pricing Schedule but passed through). If there is no Pricing Schedule or if it has expired, then our standard charges will apply.
  - Code** means the Electricity Industry Participation Code 2010;
  - Default Interest Rate** means the rate of 5% above the 90 day bank bill mid rate as quoted on the Reuters BKBM screen on the Due Date;
  - Due Date** means the 20<sup>th</sup> of the month (or the immediate Business Day following) in which the invoice is dated or (if the invoice is dated after the 10<sup>th</sup> of the month) then 10 Business Days from the date on the invoice.
  - Equipment** means meters, transformers, switches, relays, fuses and wiring used to supply you with electricity.
  - Force Majeure Event** means an event or circumstance that is beyond our reasonable control, and which prevents the substantial performance of our obligations under this Agreement. It includes floods, earthquakes or other Acts of God, civil commotion, malicious damage, industrial action, significant grid

or network or generator failure, motor vehicle and other accidents and acts or omissions of you, the Lines Company or Meter Owner (if that is not us) and any defect or abnormal condition in the Premises;

**Lines Company** means the owner of the local lines network to which your property is connected.

**Meter** means a meter and associated equipment used for the measurement, storage and/or communication of electricity usage information, and may include load and meter control devices.

**Meter Owner** means the person that owns the Meter situated on your Premises.

**Normal Business Hours** means between 8.30am and 5pm on a Business Day.

**Point of Connection** or **ICP** means the point or points at which your Premises connect to a circuit breaker, switch, fuse or other isolating device on the Lines Company's network.

**Premises** means your premises to which electricity is supplied (or intended to be supplied). This may be specified in the Customer Specific Terms.

**We, us** or **our** means Simply Energy Limited and includes its officers, employees and (when acting on our behalf or with authority from us):its, contractors or agents, the Lines Company, the Meter Owner, the meter reader and any of their employees, contractors or agents.

**You** means you, the Customer.

19.2 References to parties are references to the Customer and Simply Energy together with their successors and permitted assigns. References to a statute or regulation means reference to that statute or regulation as amended or replaced. The singular includes the plural and vice versa.